

AMENDED IN ASSEMBLY MAY 12, 2009

AMENDED IN ASSEMBLY APRIL 23, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 632

Introduced by Assembly Member Davis

February 25, 2009

An act to add Section 1708.9 to the Civil Code, relating to privacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 632, as amended, Davis. Internet-based social networking: privacy.

Existing law provides that a person is liable for constructive invasion of privacy when he or she attempts to capture, in a manner that is offensive to a reasonable person, any type of visual image, sound recording, or other physical impression of another person engaging in a personal or familial activity under circumstances in which that other person had a reasonable expectation of privacy, through the use of a visual or auditory enhancing device, regardless of whether there is a physical trespass, if this image, sound recording, or other physical impression could not have been achieved without a trespass unless the visual or auditory enhancing device was used.

This bill would require a social networking Internet Web site, as defined, to provide a specified disclosure to a user, as defined, of the site ~~regarding~~ *stating that images uploaded to onto the social networking Internet Web site may be copied with out the consent of the user who uploaded the image.* ~~The bill would also require the Internet Web site to establish a mechanism for a user to flag an image that is posted on the social networking Internet Web site for removal from the network~~

when the image is of the user requesting removal and the image is posted by another person on the other person's page on the social networking Internet Web site.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1708.9 is added to the Civil Code, to
2 read:

3 1708.9. (a) A social networking Internet Web site shall do
4 both of the following:

5 (1) ~~Provide~~ *provide* a disclosure to users of the social networking
6 Internet Web site that an image, including, but not limited to, a
7 photograph, which is uploaded onto the social networking Internet
8 Web site may be copied by persons who view the image without
9 the consent of the user who initially uploads the image. ~~The~~
10 ~~disclosure shall be displayed on the Internet Web page to which~~
11 ~~users of the site may upload images.~~

12 (2) ~~Establish a mechanism for a user to flag an image that is~~
13 ~~posted on the social networking Internet Web site for removal~~
14 ~~from the network when the image is that of the user requesting~~
15 ~~removal and the image is posted by another person on the other~~
16 ~~person's page on the social networking Internet Web site. In order~~
17 ~~to verify the identity of a user who is requesting that an image be~~
18 ~~flagged for removal pursuant to this subdivision, the user shall~~
19 ~~provide the valid password or e-mail address, or both, associated~~
20 ~~with the user's account, upon request of the social networking~~
21 ~~Internet Web site.~~

22 (b) (1) For purposes of this section, "social networking Internet
23 Web site" means a service that allows individuals to construct a
24 public or semipublic profile within a bounded system, articulate
25 a list of other users with whom they share an Internet Web site
26 connection, and view and traverse their list of connections and
27 those made by others within the system.

28 (2) For purposes of this section, "user" means a person registered
29 with the social networking Internet Web site as a member, and the
30 parent or guardian of the user if the user is registered as a minor.

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